

REMARKS

Fifty (50) claims were originally filed in the present application, and claims 1-50 currently stand rejected under 35 U.S.C. §102. Claims 1, 24, and 49 are amended herein. Reconsideration of the application in view of the foregoing amendments and the following remarks is respectfully requested.

35 U.S.C. § 102(e)

In paragraph 3 of the Office Action, the Examiner rejects claims 1-47, 49, and 50 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,167,469 to Safai et al. (hereafter Safai). The Applicants respectfully traverse these rejections.

“For a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be *identically* shown in a single reference.” *Diversitech Corp. v. Century Steps, Inc.*, 7 USPQ2d 1315, 1317 (CAFC 1988). The Applicants submit that Safai fails to identically teach every element of the claims, and therefore, does not anticipate the present invention.

Regarding the Examiner’s rejection of independent claims 1, 24, and 49, Applicants respond to the Examiner’s §102 rejection as if applied to amended independent claims 1, 24, and 49. Amended independent claims 1, 24, and 49 are now amended to recite “*an image pump being implemented separately from said image source for receiving said image data*” which are limitations that are not taught or suggested either by Safai or by the Examiner’s citations thereto.

On page 2 of the initial Office Action, the Examiner stated with regard to Safai that “the digital camera reads on the image source, and figs. 2, 6, and 7 teach the image pump.” Applicants respectfully disagree with the Examiner’s interpretation of Safai, and submit that Safai teaches that “a digital camera executes an application program that enables a user of the camera to send one or more digital images . . . from the camera . . .” (see Abstract). Applicants submit that Safai teaches that the foregoing application program is *integral with the digital camera*.

In contrast, in certain embodiments of the present invention, Applicants disclose and claim an image pump that is *separate and discrete* from the image source (see FIGS. 1-3). For example, claim 1 clearly recites “*an image source*” and also recites as a separate element “*an image pump configured to receive said image data from said image source . . .*” In order to more clearly describe the functionality of the claimed image source and the separately claimed image pump, claims 1, 24, and 49 have been amended to further describe the “*image pump being implemented separately from said image source for receiving said image data*.”

Because a rejection under 35 U.S.C. §102 requires that each claimed limitation be *identically* taught by a cited reference, and because the Examiner fails to cite Safai to identically teach the claimed system, method, or computer readable medium, including, but not limited to “*an image pump being implemented separately from said image source for receiving said image data*,”

Applicants therefore respectfully request reconsideration and allowance of 1-47, 49, and 50 so that the present application may issue in a timely manner.

With regard to claim 50, “means-plus-function” language is utilized to recite elements and functionality similar to those recited in claims 1, 21, and 49 as discussed above. Applicants therefore incorporate those remarks by reference with regard to claim 50. In addition, the Courts have frequently held that “means-plus-function” language, such as that of claim 50, should be construed in light of the Specification. More specifically, means-plus-function claim elements should be *construed to cover the corresponding structure, material or acts described in the specification*, and equivalents thereof.

Applicants respectfully submit that, in light of the substantial differences between the teachings of Safai and Applicants’ invention as disclosed in the Specification, claim 50 is therefore not anticipated or made obvious by the teachings of Safai. Applicants specifically direct the Examiner’s attention to Applicants’ discussions of FIGS. 1, 2, 3, and 8 (Specification, page 6, line 27 through page 9, line 7, and page 13, line 26 through page 14, line 25) which describe in further detail the Applicants’ claimed “means for sending said image data to an image pump” and “means for sending said image data to said service provider utilizing said image pump.”

Regarding the Examiner’s rejection of dependent claims 2-23 and 25-47, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these claims, when viewed through or in

combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants, therefore, respectfully request reconsideration and allowance of dependent claims 2-23 and 25-47 so that these claims may issue in a timely manner.

Furthermore, with regard to dependent claims 12-17, 20-21, 35-40, and 43-44, Applicants respectfully submit that both the initial Office Action and the subsequent Final Office Action completely fail to specifically discuss or address the limitations recited in dependent claims 12-17, 20-21, 35-40, and 43-44. Applicants therefore submit that claims 12-17, 20-21, 35-40, and 43-44 have thus far not received an adequate examination. Applicants respectfully request the Examiner to examine claims 12-17, 20-21, 35-40, and 43-44, and to then provide an Office Action with a written discussion of that examination, so that Applicants may respond with further specificity to the corresponding rejections.

In addition, claims 4 and 27 recite that *“said image source communicates with said image pump via a wireless connection.”* The Examiner states in the initial Office Action “[r]egarding the claimed wireless and hard wired connection refer to col. 6, lines 9-19, 51-65, cols. 13 and 18).” Applicants submit that the sections of Safai that are cited in support by the Examiner are not analogous to the communication paths between the image source and the image pump.

For example, Applicants submit that the “wireless connection” between the image source and the image pump, as recited in claims 4 and 27, would not be appropriate in Safai where the digital camera itself operates to transmit the image data to a destination. In otherwords, Safai teaches a single communication path

between a digital camera and a destination, whereas Applicants disclose and claim two separate communication paths; one from the image source to the image pump, and one from the image pump to the service provider.

Because a rejection under 35 U.S.C. §102 requires that each claimed limitation be *identically* taught by a cited reference, and because the Examiner fails to cite Safai to identically teach the claimed system, method, or computer readable medium, including, but not limited to “*an image pump being implemented separately from said image source for receiving said image data,*” Applicants therefore respectfully request reconsideration and allowance of 1-47, 49, and 50 so that the present application may issue in a timely manner.

35 U.S.C. § 102(e)

In paragraph 4 of the Office Action, the Examiner rejects claim 48 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,222,646 to Maurinus et al. (hereafter Maurinus). The Applicants respectfully traverse this rejection.

As discussed previously, “for a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be *identically* shown in a single reference.” *Diversitech Corp. v. Century Steps, Inc.*, 7 USPQ2d 1315, 1317 (CAFC 1988). The Applicants submit that Maurinus fails to identically teach every element of the rejected claim 48, and therefore, does not anticipate the present invention.

For example, claim 48 recites the step of “*reviewing said image data and said customer account information for accuracy . . .*” Applicants respectfully

submit that Maurinus nowhere teaches or discusses reviewing transferred image data and customer account information for accuracy, as claimed by Applicants.

The Examiner states that “the intended use must result in a manipulative difference as compared to the prior art.” The Examiner also states that “the intended use . . . must result in a structural difference” Applicants respectfully refer the Examiner to FIG. 8, and the Specification, page 14, lines 9-19 which discuss in further detail some of the “manipulative differences” and “structural differences” employed in the present invention while “*reviewing said image data and said customer account information for accuracy . . .*”

Because a rejection under 35 U.S.C. §102 requires that each claimed limitation be *identically* taught by a cited reference, and because the Examiner fails to cite Maurinus to identically teach the claimed method, Applicants respectfully request reconsideration and allowance of claim 48 so that the present application may issue in a timely manner.

Summary

Applicants submit that the foregoing amendments and remarks overcome the Examiner's rejections under 35 U.S.C. §102(e). Because Safai, Maurinus, or the Examiner's citations thereto, do not identically teach the claimed invention, and in light of the differences between the claimed invention and the cited prior art, Applicants therefore submit that the claimed invention is patentable over the cited art, and respectfully request the Examiner to allow claims 1-50 so that the present Application may issue in a timely manner.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "Version With Markings To Show Changes Made." If the Examiner has questions concerning this amendment, she is invited to telephone the Applicant's undersigned representative at the number given below.

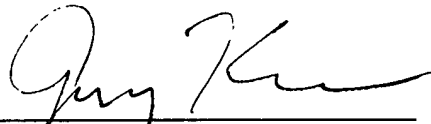
Respectfully submitted,

Goldstein et al.

Date: _____

4/25/02

By: _____



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In The Claims:

1. (Twice Amended) A system for transferring image data to a service provider, comprising:
 - an image source; and
 - an image pump configured to receive said image data from said image source by at least one of a wireless connection, a hard-wired connection, and a form of removable storage, and responsively provide said image data to said service provider, said image pump being implemented separately from said image source for receiving said image data.

24. (Twice Amended) A method for transferring image data to a service provider, comprising the steps of:
 - capturing said image data utilizing an image source;
 - sending said image data from said image source to an image pump by at least one of a wireless connection, a hard-wired connection, and a form of removable storage, said image pump being implemented separately from said image source for receiving said image data; and
 - providing said image data to said service provider by utilizing said image pump.

49. (Once Amended) A computer-readable medium comprising program instructions for transferring image data to a service provider, by performing the steps of:

capturing image data utilizing an image source;

sending said image data from said image source to an image pump, said image

pump being implemented separately from said image source for

receiving said image data; and

providing said image data to said service provider by utilizing said image pump.